



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Derek P. Franklin

MAY 23 2016

Atchison, KS 66002

RE: MUR 6871

Dear Mr. Franklin:

The Federal Election Commission reviewed the allegations in your complaint received on August 15, 2014. On May 19, 2016, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations and close its file in this matter. Accordingly, the Commission closed its file in this matter on May 19, 2016.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). A copy of the dispositive General Counsel's Report is enclosed for your information.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

Sincerely,

Daniel A. Petalas
Acting General Counsel

BY: Jeff S. Jordan
Assistant General Counsel
Complaints Examination and
Legal Administration

Enclosure
General Counsel's Report

160044240001

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

SENSITIVE

MUR: 6871

Complaint Receipt Date: September 15, 2014

Response Date: October 9, 2014

Respondents: Tucker for Congress
Edwin Anthony Stremel
treasurer (collectively the
"Committee")

CELA

EPS Rating:

Alleged Statutory/

Regulatory Violations:

52 U.S.C. § 30120(a)(1)

11 C.F.R. §§ 100.26, 100.28, 110.11(b)(1)

The Complaint alleges that the Committee violated the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations by distributing an automated telephone message recorded by candidate Joshua J. Tucker, which lacked a disclaimer stating that the Committee had paid for it. Among other things, any political committee's automated telephone message that qualifies as a public communication must contain a statement identifying it as the payor. Respondents concede that they inadvertently omitted that particular statement from the other disclaimer language in the recorded message, but assert that they took quick remedial action after being made aware of the error. In addition, the transcript of the phone message contains information that reflects the identity of the candidate whose committee was responsible for it.

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in

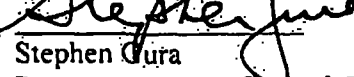
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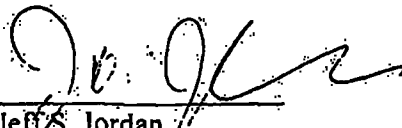
potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and the other circumstances presented, we recommend that the Commission dismiss the allegations consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.

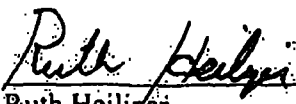
Daniel A. Petalas
Acting General Counsel

Kathleen M. Guith
Acting Associate General Counsel
for Enforcement

5.4.16
Date

BY: 
Stephen Gura
Deputy Associate General Counsel
Enforcement


Jeff S. Jordan
Assistant General Counsel
Complaints Examination
& Legal Administration


Ruth Heilizer
Attorney
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